

 **ORIGINAL**



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October 20, 2002

Dockets Management Branch
Food and Drug Administration
Department of Health and Human Services
Room I-23
12420 Parklawn Drive
Rockville, MD 20857

CITIZEN PETITION

Dear Sir:

This Citizen's Petition is submitted by the undersigned on behalf of our client under the authority of 21 CFR §10.30, 21 CFR § 314.93, Section 505(j)(2)(C) of the Federal Food, Drug, and Cosmetic Act. The petitioner is requesting the Commissioner of Food and Drugs to make a determination that diethylstilbestrol [DES] tablets (1.0 mg and 5.0 mg) that were voluntarily withdrawn by Eli Lilly & Co [Lilly] and Bristol-Myers-Squibb [BMS] from sale in the United States is suitable for filing under an abbreviated new drug application (ANDA). The petitioner is also requesting that the Food and Drug Administration permit the filing of an Abbreviated New Drug Application for DES 1.0 mg and 5.0 mg that has the same active ingredient, is of the same strength, and is expected to be bioequivalent to that of Lilly and BMS drug products.

A. Action Requested

By this petition, the Commissioner of the Food and Drug Administration is being requested to declare that a new drug application(s) for DES 1.0 mg and 5.0 mg tablets is suitable for submission as an Abbreviated New Drug Application (ANDA), pursuant to 21 CFR § 314.94 for the treatment of prostatic carcinoma-palliative therapy of advanced disease.

At this time, the undersigned is also requesting a waiver of the requirement to conduct pediatric studies in accordance with 21 CFR § 314.55(c)(2). The basis for this request is that it is unlikely that DES tablets for the proposed indications will be administered to children.

02P-0464

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B. Statement of Grounds

The Drug Price Competition and Patent Term Restoration Act of 1984 (“the Waxman-Hatch Act”) extends eligibility for the submission of ANDA’s to certain drug products identical to those approved via new drug applications. Where the proposed drug product differs from the “approved drug” in one or more respects, a person may petition the Agency, under section 505 (j)(2)(c) of the Act, for a determination that the proposed drug is suitable to be submitted as an ANDA.

The drug products that form the basis for this petition are tablets containing 1.0 mg DES and 5.0 mg DES, similar to the tablets that Lilly and BMS voluntarily withdrew from sale in the United States 6 years ago. To the best of Petitioner’s knowledge, applicable U.S. patents with respect to the drug substance, DES, has expired.

The Commissioner of Food and Drugs has previously approved ANDA suitability petitions of this nature, in particular, those in which the petitioners have not sought to change the dosage form from those previously approved by FDA via the new drug application. The proposed drug product is identical with respect to active ingredient, strength, route of administration, and condition of use for prostate cancer. Because the proposed drug product is dose proportional and contains the same active and inactive ingredients, it should be bioequivalent to the innovator product. The proposed drug product is expected to have the same bioavailability as the innovator drug product when administered to patients under same condition of use. In accordance with FDA regulations and policies, the client will request a bioequivalency waiver in its ANDA submission.

Further the Commissioner of Food and Drugs has previously approved new use for an old drug via a new drug application. For example is thalidomide when used by pregnant women resulted in the birth of thousands of deformed babies. In 1961, scientists discovered that the medication stunted the growth of fetal arms and legs. In fact, taking only one dose of thalidomide early in pregnancy can severely affect the growth of fetal limbs (arms, legs, hands, feet). It also puts the fetus at risk of other injuries, including eye and ear defects and severe internal defects of the heart, genitals, kidneys, digestive tract (including lips and mouth), and nervous system. Nevertheless, there was new use for thalidomide in a specific segment of our patient population and FDA entertained the submission of a new drug application for a different indication. On July 16, 1998 Thalomid (thalidomide) capsules (NDA 20-785) was approved for use in the acute treatment of the cutaneous manifestations of moderate to severe erythema nodosum leprosum (ENL) and as maintenance therapy for prevention and suppression of the cutaneous manifestations of ENL recurrences.

In support of this petition, the following information is being provided:

- (1) Pursuant to 21 CFR 314.93 (d), a copy of the DES product information prepared by Lilly in June 1997 is included (Attachment A)
- (2) A copy of the proposed labeling for generic 1.0 mg and 5.0 mg DES tablets is also included (Attachment B).

Based on the foregoing as well as review of scientific literature and current treatment options for prostate cancer, Petitioner believes that a new use of DES in **male population only** is justified based on both safety and efficacy and that DES 1.0 mg and 5.0 mg tablets warrants a finding of ANDA suitability and that the Commissioner should grant permission for the filing of an ANDA for both 1.0 mg and 5.0 mg tablets.

C. Environmental Impact

A categorical exclusion is claimed as the granting of this Petition will result in an ANDA for a drug product that is consistent with the parameters for exclusion established in 21 CFR 25.24(c)(1).

D. Economic Impact

Information under this section will be submitted if requested by the Commissioner [21 CFR 10.30 (b)] following review of this Petition.

E. Certification

The undersigned certifies that, to the best knowledge and belief of the undersigned, this Petition includes all information and views upon which the Petition lies, and that it includes representative data and information known to the Petitioner, which are unfavorable to the Petition.

Respectfully submitted,



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Enclosures